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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/397,008

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LAWRENCE M. AUSUBEL

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05/04/2006

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EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/397,008	Applicant(s) AUSUBEL, LAWRENCE M.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-30, 43-55, 58-61, 113-115, 126-133, 139-141 and 152-173 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-30, 43-55, 58-61, 113-115, 126-133, 139-141 and 152-173 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the previous Office action, the Examiner has previously indicated allowable subject matter of claims 26-30, 43-55, 58-61, 113-115, 126-133, 139-141 and 152-173. The Applicant's representative has now canceled claims that were under rejection in order to bring the application into allowance. The Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. The Examiner regrets the delayed process of the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-30, 43-55, 58-61, 113-115, 126-133, 139-141, 152-173 are rejected under 35 U.S.C. 103(a) as being unpatentable Anthes, Gary H. Computerworld, Framingham: April 3, 1995, Vol. 29, Issue 14, page 58 and Washington Telecom News, v2, n26, pN/A (Dialog File 16, Accession No. 03435210).

As per claims 26, 43-55, 58-61, 113-115, 127, 139-141 and 152-173, Anthes discloses an FCC auction system built on a client/server system. The auction system allows submission of bids on items at a plurality of times or rounds and allowing assignment of the items at different prices. Applicant is directed to the last paragraph of

page 1. Anthes discloses a client/server architecture. Thus, there includes a plurality of bid entry terminals or client terminals operated by bidders, a bidding information processor or the server being communicatively coupled to the bid entry terminals, means for receiving bids from the bid entry terminals and each bid terminal comprising means for receiving a bid from a participating bidder and means for receiving current bidding information from the bidding information processor or server.

As in most auction systems, transmitting from a computer a signal regarding current information regarding the bidding process at the beginning of the auction would have been obvious to the skilled artisan so that bidders may view bidding information regarding item information and asking price information. Steps of receiving bids submitted by a plurality of bidders, a bid indicating at least a quantity of the items that a bidder wishes to transact and determining at a computer, for each of a plurality of bidders, a quantity of the items, if any to be unassigned at the current time and in the event of such a determined quantity, assigning the determined quantity to the determined bidder is taught on page 2, first paragraph.

Generating at a computer updated information regarding the bidding process is taught by Anthes as displaying new bid information and current bidding information to bidders. The step of initiating at a computer at least one additional opportunity for bidders to submit bids if any items remain unassigned is read as additional rounds are held until no new bid is received for any license.

As per the claimed features of steps or means of:

“Summing the quantities of objects to be transacted at the current price to determine a summed quantity of objects to be transacted at the current price”, it is noted that different bidders will bid for a number or quantities of one or more different items. Thus, the quantities of objects being transacted must be known so that the number of items being bided is not more than the number of available objects. Summing the quantities of objects to be transacted at the current price to determine a summed quantity of objects to be transacted at the current price would have been obvious to one of ordinary skill in the art to do in order to keep track of inventory and to ensure that the system has a sufficient quantities of licenses or objects satisfying winners of the auction.

As per the claimed features of steps or means of:

“A first comparing means coupled to the first summing means for comparing the summed quantity of objects to be transacted at the current price with a quantity of available objects”, the examiner notes that in order to know if a winner will receive all winning objects, a comparison would have been made with the number of available objects with the summed quantity of objects being transacted at a the current price. Performing such a calculation in the system of Anthes would have been obvious to one of ordinary skill in the art to do in order to ensure that a winner is awarded with all the objects being bided on.

As per the claimed limitations of assigning objects to a bidder based on the bids of the other bidders and decreasing the current quantity of objects available, if the summed quantity of objects to be transacted at the current price is greater than the

current quantity of available objects, the examiner asserts that such would have been obvious to one of ordinary skill in the art to do since whenever a winner is awarded a quantity of objects, this quantity of objects must be deducted from the number of available quantity of objects for inventory purposes. The winning objects would have then been assigned to the winning bidder as a quantity of objects corresponding to each bidder's respective bid.

Applicant's representative argues that the system of Athens does not assign objects because Athens state that in the FCC auction "all licenses at an auction remain open until all close". Applicant's representative then states that nothing is assigned at any time except at the termination of the auction.

In response, applicant's claims do not recite when or at what time during the auction that objects are assigned. Furthermore, the phrase "assigning..." does not positively recite that objects are being awarded to bidders.

In any event, the Washington Telecom News reference describes a similar FCC auction as described in the Anthes reference. In the Washington Telecom News reference, it is stated, "A bidder will be considered active on a license if the bidder is either the high bidder from the previous round or submits a bid that exceeds the previous round's high bid by at least the amount of the minimum increment". Thus, being active on a license is similar to the assigning of determined quantity of objects to a determined bidder in a current round.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teachings of the Washington Telecom News in

the system described by Anthes since they are both directed to the FCC auction wherein a plurality of bidders are bidding on one or more objects or licenses. The motivation would have been to allow bidders to bid in a multiple round auction system for similar objects.

As per claim 27, means for selecting for consideration a bidder not yet considered would have been obvious to do in the system of Anthes in order to determine whether a bidder is a winning bidder, a losing bidder or a withdrawn bidder.

Summing the quantities to be transacted by all bidders other than the bidder selected for consideration would have been obvious for one of ordinary skill in the art to do in the system of Anthes in order to acknowledge the total amount and number of objects being bided upon.

Comparing the quantities to be transacted by all bidders other than the bidder selected for consideration with the current quantity of available objects would have been obvious to do in the system of Anthes because for each time or round a bidder either being withdrawn or added, a new computation would have been made to keep track if the number of objects being bided on is not greater than the available quantity.

Assigning objects in excess of those to be transacted by all bidders other than the bidder selected for consideration to the bidder selected for consideration and subtracting those objects from the current quantity of available objects if the quantity to be transacted by all bidders other than the bidder selected for consideration is less than

the current quantity of available objects would have been obvious to one of ordinary skill in the art to do in the system of Anthes in order to award the winning objects to the winning bidder.

Claim 28 contains features recited in claim 26 and these features are likewise rejected. As per the claimed limitation of "wherein each bid entered by a bidder is limited by an immediately preceding bid entered by that bidder", the examiner notes that the Washington Telecom News article states that a new bid must be higher than a previously submitted bid. See page 1 of the article.

Claim 29 contains features recited in claim 26 and these features are rejected under a similar rationale. As per the limitation of "wherein the updated bidding information includes all bids received at the bidding information processor at the current price and a bid entry terminal comprises means for displaying all bids", the server in the system described by Anthes updates all bids and transfer the bid information to the client or bid entry terminal to be displayed to the related bidder.

Claim 30 contains limitations recited in claim 26 and these limitations are rejected under a similar rationale. As per the limitation of "wherein the means for generating updated bidding information comprises means for receiving an updated current price specified by an auctioneer, the Washington Telecom News states that there is a minimum bid increment for each round that a bidder must place. See page 1 of the article.

As per claim 126, the assigning of objects or a quantity of objects occurs at the associated price is taught on pages 1 and 2 of Anthes.

As per claims 128-130, Anthes does not explicitly disclose a minimum or a maximum price that may be submitted in a bid or a number of objects on which a bidder is allowed to bid is not greater than the number of objects on which the bidder bids in an immediately preceding round. The Washington Telecom News provided this limitation. It would have been obvious to one of ordinary skill in the art to include such a feature as taught by the Washington Telecom News in the system of Anthes with the motivation of providing limits so that a range of profit is made.

As per claims 131 and 132, Anthes discloses that a bid comprises an indication of a quantity of objects and a price associated with the quantity of objects. Note pages 1 and 2 of the reference.


As per claim 133, since the system is a multiple round auction system, a bid indicating the quantity of objects that bidder wishes to transact at two or more prices is not explicitly taught by Anthes would have been obvious to one of ordinary skill in the art to introduce in the system of described by Anthes and the Washington Telecom News in order to facilitate a bidders' plurality of bids in a multiple round bidding system.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Frantzy Poinvil
Primary Examiner
Art Unit 3628

FP
April 25, 2006